

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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THERESA BEHN,

Plaintiff,

vs.

Case No. 3:20-cv-985-DEP

KILOLO KIJAKAZI,<sup>1</sup>  
ACTING COMMISSIONER OF  
SOCIAL SECURITY,

Defendant.

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**Consent Order for Payment of Fees under the Equal Access to Justice Act**

IT IS HEREBY STIPULATED AND AGREED by and between counsel for the Plaintiff, Theresa Behn, and counsel for the Defendant, Acting Commissioner of Social Security, that Plaintiff is awarded Six Thousand Two Hundred Seventy-Seven Dollars and 53/100 (\$6277.53) in attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412. The award of attorney fees will satisfy all of plaintiff's claims for fees, costs, and expenses under 28 U.S.C. § 2412 in this case. Any fees paid belong to plaintiff and not to her attorney and can be offset to satisfy pre-existing debt that plaintiff owes the United States. *Astrue v. Ratliff*, 560 U.S. 586 (2010). After the court enters this award, if defendant can verify that plaintiff owes no preexisting debt subject to offset, defendant agrees to make the award payable to plaintiff's attorney pursuant to the EAJA assignment signed by plaintiff and counsel.

The Court having reviewed the record in this matter;

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<sup>1</sup> Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi should be substituted, therefore, for Andrew Saul as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

IT IS on this 2nd day of May, 2022;

**ORDERED** that Plaintiff be allowed a fee under the Equal Access to Justice Act in the amount of \$6277.53 in attorney's fees. Attorney's fees are payable to the Plaintiff, but if Plaintiff does not owe a debt subject to offset, payable to Plaintiff's attorney if Plaintiff assigns EAJA to counsel.

The undersigned hereby consent to the form and entry of the within Order.

CARLA B. FREEDMAN  
United States Attorney

Dated: April 28, 2022

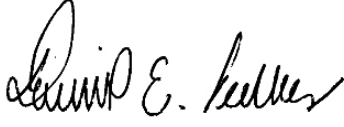
s/ Ronald Makawa<sup>2</sup>  
Ronald Makawa  
Assistant Regional Counsel  
Attorney for Defendant

Dated: April 28, 2022

s/ Peter Gorton  
Peter Gorton  
Attorney for Plaintiff

Dated: May 2, 2022  
Syracuse, New York

SO ORDERED:

  
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Honorable David E. Peebles  
United States Magistrate Judge


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<sup>2</sup> Signed by Peter Gorton with permission of Ronald Makawa

### ASSIGNMENT OF ATTORNEY'S FEES

If a Federal Court awards fees to be paid by the government under the Equal Access to Justice Act, I assign them to my attorney, Peter A. Gorton, agree they can be paid directly to my attorney and authorize him to deposit checks paying them. If any checks are made payable to me for the attorney fees, I hereby authorize my attorney to endorse said checks on my behalf and deposit the same in his account. If my attorney is paid EAJA fees and I pay fees from my benefits for the same work, my attorney will refund to me the smaller of the two fees paid to him.

Dated: 8/25, 2020

  
Theresa Behn  
SSN: 5059